

Filed 2/27/19 P. v. Smith CA2/7

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

DAISHAUNA SMITH,

Defendant and Appellant.

B289967

(Los Angeles County
Super. Ct. No. BA362646)

APPEAL from an order of the Superior Court of
Los Angeles County, Renée F. Korn, Judge. Affirmed.

Erica Gambale, under appointment by the Court of Appeal,
for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

FACTUAL AND PROCEDURAL BACKGROUND

On October 23, 2009 the People charged Daishauna Smith with carjacking and leaving the scene of an accident resulting in injury. Smith waived her constitutional rights to a trial and pleaded no contest to carjacking. The trial court imposed and stayed execution of a prison term of nine years and placed Smith on formal probation for five years on condition she serve 183 days in county jail with credit for time served. The terms of Smith's probation included that she meet with her probation officer within 48 hours of her release from custody. The court dismissed the remaining count under Penal Code section 1385.

On August 31, 2010 Smith appeared in court and admitted she had violated the terms of her probation. The trial court revoked and reinstated probation with a modified term that she serve 33 days in county jail with credit for time served. The court ordered Smith to report to her probation officer within 48 hours of her release.

On January 23, 2012 Smith appeared in court and again admitted she had violated probation, this time as a result of a new case charging her with one count of possession of codeine and two counts of possession of phencyclidine.

On August 29, 2017 Smith admitted she had violated probation in October 2014 after her probation officer reported she had failed to pay her court-ordered fines and fees, obey all probation department rules and regulations and court orders, and keep her probation officer advised of her current residence and telephone numbers. The trial court revoked and reinstated probation with a modified term that Smith successfully complete a residential substance abuse treatment program of no less than

eight months. The court ordered the Los Angeles County Sheriff's Department to transport Smith to the residential program upon her release from custody.

On October 24, 2017 the trial court revoked Smith's probation and issued a bench warrant after she failed to appear at a hearing on her progress at the substance abuse treatment program. The court subsequently recalled the warrant and scheduled a probation violation hearing.

Following the March 21, 2018 probation violation hearing, at which Smith's probation officer testified, the trial court found Smith violated the terms of her probation by failing to report to the probation department, failing to provide her current work and home address and telephone numbers, and failing to enroll in and complete a residential drug treatment program. The court terminated Smith's probation and ordered executed the previously stayed nine-year sentence, with 426 days of presentence custody credits. Smith filed a timely notice of appeal from the order.

DISCUSSION

We appointed counsel to represent Smith in this appeal. After reviewing the record, counsel filed an opening brief raising no issues. On October 16, 2018 we gave Smith notice she had 30 days to submit a brief or letter raising any grounds of appeal, contentions, or arguments she wanted us to consider. We have not received a response.

We have examined the record and are satisfied that appellate counsel for Smith has complied with her responsibilities and that there are no arguable issues.

(*Smith v. Robbins* (2000) 528 U.S. 259, 277-284 [120 S.Ct. 746, 145 L.Ed.2d 756]; *People v. Kelly* (2006) 40 Cal.4th 106, 118-119; *People v. Wende* (1979) 25 Cal.3d 436, 441-442.)

DISPOSITION

The order revoking and terminating probation is affirmed.

SEGAL, J.

We concur:

PERLUSS, P. J.

ZELON, J.